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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,750	03/29/2004	Shinichiro Okugawa	2018-868	9085

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ARLINGTON, VA 22203

EXAMINER
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TRAN, BINH Q

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

<b>Office Action Summary</b>	Application No. 10/810,750	Applicant(s) OKUGAWA ET AL.	
	Examiner BINH Q. TRAN	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/29/04, 11/16/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

*Claims 1, and 8-9 are rejected under 35 U.S.C. 102 (e) as being anticipated by Itoh et al.*

*(Itoh) (Patent Number 6,786,041).*

Regarding claim 1, Itoh discloses a exhaust gas cleaning system of an internal combustion engine (1), the exhaust gas cleaning system comprising: a particulate filter (22) disposed in an exhaust passage of the internal combustion engine; temperature increasing means

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for increasing temperature of the particulate filter; temperature estimating means for estimating the temperature of the particulate filter (e.g. See col. 13, lines 29-67; col. 14, lines 1-16); particulate matter accumulation quantity estimating means for estimating a quantity of particulate matters accumulated in the particulate filter (e.g. See col. 9, lines 27-67; col. 10, lines 1-50); and regenerating means for regenerating the particulate filter by increasing the temperature of the particulate filter to a predetermined value through an operation of the temperature increasing means and by eliminating the particulate matters accumulated in the particulate filter through combustion when the quantity of the particulate matters accumulated in the particulate filter (e.g. See col. 13, lines 29-67; col. 14, lines 1-16), which is estimated by the particulate matter accumulation quantity estimating means, exceeds a predetermined value, wherein the regenerating means includes energy input amount determining means for determining an amount of energy inputted by the temperature increasing means in accordance with the temperature of the particulate filter estimate by the temperature estimating means (e.g. See col. 15, lines 47-67; col. 16, lines 1-28).

Regarding claim 8, Itoh further discloses that the temperature estimating means estimates the temperature of the-particulate filter based on an output of a temperature sensor (39) disposed upstream or downstream of the particulate filter or based on outputs of temperature sensors disposed upstream and downstream of the particulate filter (e.g. See col. 5, lines 55-67; col. 6, lines 1-11).

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Regarding claim 9, Itoh further discloses that the particulate matter accumulation quantity estimating means estimates the quantity of the particulate matters accumulated in the particulate filter based on at least one of a pressure difference across the particulate filter and an operating state of the internal combustion engine (e.g. See col. 5, lines 35-67; col. 6, lines 1-25).

*Allowable Subject Matter*

Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

*Prior Art*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of five patents:

Kawashima et al. (Pat. No. 6851258), Kawaguchi (Pat. No. 5701735), Taniguchi (Pat. No. 5716586), and Nakatani et al. (Pat. No. 6820418) all discloses an exhaust gas purification for use with an internal combustion engine.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT  
August 04, 2005



Binh Q. Tran  
Patent Examiner  
Art Unit 3748